

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESale PRICE)	MDL No. 1456
LITIGATION)	Civil Action No. 01-12257-PBS
)	
)	Subcategory No. 06-11337-PBS
THIS DOCUMENT RELATES TO:)	
)	Hon. Patti B. Saris
<i>United States of America ex rel. Ven-a-Care of</i>)	
<i>the Florida Keys, Inc. v. Dey, Inc., et al., Civil</i>)	
Action No. 05-11084-PBS)	

**DECLARATION OF GEORGE B. HENDERSON, II
SUBMITTING EXHIBITS IN SUPPORT OF
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, George B. Henderson, II, do hereby declare as follows:

1. I am an Assistant U.S. Attorney in the Office of the United States Attorney, District of Massachusetts. I am a member in good standing of the bar of this Court.
2. On behalf of the plaintiff United States of America, I am submitting with this declaration Exhibits in support of the United States' Motion For Partial Summary Judgment. In addition, I am submitting with this declaration Exhibits in support of the Response of the United States of America to Dey Defendants' Statement of Undisputed Material Facts in Support of Dey, Inc., Dey, L.P., and Dey L.P., Inc.'s Motion for Partial Summary Judgment.
3. The following exhibits are true and correct copies of the materials described:

Ex. #	Description
1.	Deposition of Helen Selenati, May 4, 2005, selected pages
2.	Rule 30(b)(6) Deposition of Dey, Inc., et al. (Marrs), May 15, 2008, selected pages

3.	Exhibit 027 to the Deposition of Pamela Marrs, July 10, 2008
4.	Inter-Office Memorandum from Todd Galles, Re: Ipratropium Bromide Inhalation Solution Launch, January 13, 1997
5.	Inter-Office Memorandum from Susan Schnars, Re: New Albuterol AWP/WAC Changes, July 26, 2000
6.	Letter from Robert K. Mozak to State Medicaid Administrator, August 10, 1999
7.	Letter from Russell R. Johnston to Pricing Database Administrator, November 2003
8.	Letter from Russell Johnston to Betty Reynolds (Broadlane-Acute Care), June 20, 2005
9.	New Product Packaging Announcement for Albuterol Sulfate, January 1, 2005
10.	Deposition of Russell Johnston December 10, 2008, selected pages & Dep. Ex. 18
11.	Deposition of Matthew Erick June 17, 2008, selected pages
12.	Deposition of Kimber Tate, October 15, 2004, selected pages
13.	Deposition of Saul Factor June 20, 2008, selected pages
14.	Exhibit 580 to the Deposition of Charles Rice, March 24, 2003
15.	Deposition of William Hill, November 11, 2008, selected pages & Exhibits
16.	Deposition of Pamela Marrs, August 19, 2004, selected pages
17.	Deposition of Russell Johnston, December 11, 2008, selected pages & Dep. Exs. 34 & 49
18.	Declaration of Patrick Ormond

19.	Declaration of Simon D. Platt
19A.	Dey Answers to Interrogatories, Response No. 1.
20.	Deposition of Todd Galles, February 28, 2006, selected pages
21.	Rule 30(b)(6) Deposition of Dey, Inc., et al. (Marrs), July 10, 2008, selected pages
22.	Deposition of Pamela Marrs, November 14, 2007, selected pages
23.	Deposition of Russell Johnston, May 1, 2002, selected pages
24.	Deposition of Robert Francis Mozak, April 30, 2002, selected pages
25.	Deposition of Kristen Minne, November 18, 2008, selected pages and Dep. Ex. 7
26.	Redbook Product Listing Verification September 10, 1999
27.	Exhibit 622 to the Deposition of Eve Fagrell Gmeiner, January 20, 2003
28.	Exhibit 275 to the Deposition of Todd Galles, March 1, 2006
29.	Inter-Office Memorandum from Todd Galles, Re: Ipratropium Bromide Inhalation Solution Launch, January 13, 1997
30.	Redbook Product Listing Verification September 23, 1997
31.	Exhibit 263 to the Deposition of Todd Galles, February 28, 2006
32.	Memorandum from DEY Laboratories to Beth Raider, Re: Pricing Update, May 30, 1995
33.	Exhibit 359 to the Deposition of Joseph Hirschman, November 12, 2002
34.	Deposition of Charles A. Rice, November 7, 2002, selected pages

35.	Exhibit 22 to the Deposition of Pamela Marrs, May 15, 2008
36.	Deposition of Helen Selenati, August 15, 2002, selected pages
37.	Deposition of Helen Selenati, May 5, 2005, selected pages
38.	Memorandum from Rob Ellis to Field Sales/Telesales, Re: Monthly Marketing Memo, January 7, 1993
39.	Exhibit 478 to the Deposition of Robert Ellis, February 10, 2003
40.	Deposition of Robert Ellis, February 10, 2003
41.	Deposition of Carrie Jackson, April 18, 2003, selected pages and exhibit 880
42.	Exhibit 231 to the Deposition of Robert Mozak, April 30, 2002
43.	Letter from Debra Bronstein to Nancy M. Watson (The Lewin Group), January 17, 2000
44.	First Databank Medicaid Coverage Report, December 28, 2002
45.	Letter from Kathy Gutgesell to Todd Galles, December 17, 1998
46.	Deposition of Robert Mozak, November 6, 2002, selected pages
47.	Exhibit 578 to the Deposition of Charles Rice, March 24, 2003
48.	Exhibit 476 to the Deposition of Robert Ellis, February 10, 2003, , selected pages
49.	Exhibit 593 to the Deposition of Charles Rice, March 24, 2003, selected pages,
50.	Deposition of Charles Rice, March 24, 2003, selected pages

51.	Letter from Robert Ellis to Mary Harmon (Facts and Comparisons), April 1, 1994
52.	Memorandum from Carrie Jackson, Re: Medicaid Update: Cromolyn, June 1, 1994
53.	Deposition of Michael T. Ricks-Bey January 8, 2009
54.	Deposition of Ross Uhl February 24, 2003, selected pages and Dep. Ex. 778
55.	Exhibit 41 to the Deposition of Helen Selenati, May 4, 2005
56.	Deposition of Cynthia Jane Collie February 19, 2003, selected pages
57.	Exhibit 9 to the Deposition of William Hill, November 11, 2008
58.	Exhibit 10 to the Deposition of William Hill, November 11, 2008
59.	Deposition of Todd Galles March 1, 2006, selected pages and Dep. Ex. 37
60.	Exhibit 462 to the Deposition of Todd Galles, February 6, 2003
61.	Deposition of Pamela Marrs October 2, 2008, selected pages and Exhibits 44, 45
62.	Exhibit 12 to the Deposition of William Hill November, 11, 2008
63.	Declaration of Ian Dew
64.	Exhibit 46 to the Deposition of Helen Selenati, May 4, 2005
65.	Marketing Launch Plan:Albuterol Inhalation Aerosol, by Todd Galles, November 1995.
66.	Exhibit 10 to the Deposition of Pamela Marrs, May 15, 2008

67.	Letter from Todd Galles to Mary Anne Schauer (Red Book), January 14, 2006
68.	Exhibit 582 to the Deposition of Charles Rice, March 24, 2003
69.	Ipratropium Bromide Marketing Plan, by Todd Galles, Eve Gmeiner, and Debra Bronstein, June 28, 1996 (selected pages)
70.	Exhibit 229 to the Deposition of Robert Mozak, April 30, 2002
71.	Exhibit 11 to the Deposition of Pamela Marrs, November 14, 2007
72.	Letter from Todd Galles Re: Dey Laboratories Introduces Ipratropium Bromide Inhalation Solution, January 10, 1997
73.	Inter-Office Memorandum from Todd Galles, Re: New Product Launch: Ipratropium30s, August 6, 1998
74.	DL-BO-072295, DEY007-3378, DEY002-1294, DEY039-4145
75.	Exhibit 12 to the Deposition of Pamela Marrs, November 14, 2007
76.	Exhibit 465, selected pages, to the Deposition of Todd Galles February 6, 2003
77.	Deposition of Todd Galles February 6, 2003, selected pages
78.	Deposition of Todd Galles March 1, 2006, selected pages
79.	Deposition of Donald Lyle, July 22, 2008, selected pages
80.	Subpoena to Dey, 1997
81.	Letter from the Office of the Attorney General, State of Texas, to Dey, Inc (Texas 2000 CID)
82.	Subpoena to Dey, 2000
83.	Deposition of Charles Rice October 30, 2001, selected pages
84.	Deposition of Robert Mozak, November 1, 2001, selected pages
85.	Deposition of Pamela Marrs, April 16, 2003, selected pages

86.	Letter from Steven Fleckman to the Office of Attorney General, Austin, TX, January 31, 2003
86A.	Fax from Jessica McGlynn to the Office of Attorney General, Austin TX, February 4, 2003
87.	Production Letter, February 13, 2003
88.	Documentation Control Sheet, May 15, 2005
89.	Production Letter, April 28, 2003
90.	Letter from Tom Bliley to Charles Rice, May 5, 2000
91.	Compliance Guidelines: 68 Fed. Reg. 23731-34 (May 5, 2003)
92.	U.S. Notice of 30 (b)(6) Deposition of Dey
93.	Intentionally Omitted
94.	HCFA Transmittal No. AB-98-76 (December 1998)
95.	Deposition of David Bradford, May 8, 2009, selected pages
96.	Supplement to Expert Report of Mark G. Duggan, Ph.D
97.	Compilation consisting of Palmetto GBA arrays, Red Book publications, and CIGNA Arrays
98.	Declaration of Robin Kreush Stone
99.	Deposition of Paula Sue Walker, March 12, 2008, selected pages
100.	Sealed Ex. A
101.	Sealed Ex. B
102.	Deposition of Pamela Marrs, March 10, 2005, selected pages
103.	Merck KGaA's, Merck S.A.'s, and Merck Santé S.A.S's Motion to Dismiss For Lack of Personal Jurisdiction filed in <i>The State of Florida ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim, et al.</i> , in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, Case No. 98-3032A)
104.	Public Listing of Merck KgaA, at http://pb.merck.de/servlet/PB/menu/1487240/index.html
105.	Letter from Charles Rice to Senator Barbara Boxer, May 1, 2001
106.	Deposition of Debra Bronstein, March 11, 2003, selected pages

107.	Deposition of Richard Upp, February 14, 2003, selected pages
108.	Rule 30(b)(6) Deposition of Oregon (Jesse Anderson), December 16, 2008, selected pages
109.	Fax Transmission from Charles Rice to Franz Schafer (Merck Generics), March 8, 1996
110.	Albuterol Slide-Show
111.	Sales Commentary, by Charles Rice, July 1994
112.	Sales in Net Dollars, December 1995-1996
113.	Strategic Planning Meeting, September 1997
114.	U.S. Department of Health and Human Services, Office of the Inspector General, "Generic Drug Utilization in State Medicaid Programs," July 2006
115.	Deposition of Patricia Kay Morgan, November 13, 2002, selected pages
116.	Declaration of Stephen Schondelmeyer
117.	Email from Mark Boudreau to Pamela Marrs, Re: MDI WAC Adjustment, May 31, 2002
118.	Letter from Eve Gmeiner to Connie Westbrook (Medispan), December 31, 1997
119.	Deposition of Robert Mozak, March 13, 2003, selected pages, and Exhibit 555
120.	Exhibit 32 to the Deposition of Russell Johnston, December 11, 2008, selected pages
121.	Rule 30(b)(6) Deposition of Cardinal health, Inc. (Neil Warren), September 9, 2008, selected pages.
122.	Deposition of Larry Reed, September 26, 2007, selected pages
123.	Deposition of Larry Reed, September 27, 2007, selected pages
124.	Deposition of Bruce Vladeck, June 21, 2007, selected pages
124A	Deposition of Bruce Vladeck, May 4, 2007, selected pages
125.	Deposition of Diedre Duzor, February 27, 2007, selected pages.
126.	Rule 30(b)(6) Deposition of Arkansas (Suzette Bridges), December 10, 2008, selected pages

127.	Rule 30(b)(6) Deposition of California (Kevin Gorospe), December 3, 2008, selected pages
128.	Rule 30(b)(6) Deposition Georgia (Jerry Dubberly), December 15, 2008, selected pages
129.	Rule 30(b)(6) Deposition of Illinois (James Parker), November 18, 2008, selected pages
130.	Rule 30(b)(6) Deposition of New Hampshire (Farrand), October 28, 2008, selected pages
131.	Rule 30(b)(6) Deposition of New Jersey (Vaccaro), December 2, 2008, selected pages
132.	Rule 30(b)(6) Deposition North Carolina (Lisa Weeks), October 21, 2008, selected pages
133.	Rule 30(b)(6) Deposition of Vermont (Ann Rugg), December 15, 2008, selected pages
134.	Deposition of T. Mark Jones, December 8, 2008, selected pages
135.	Deposition of Robert Vito, February 5, 2008, selected pages
136.	Deposition of T. Mark Jones, December 9, 2008, selected pages
137.	Exhibit 53 to the Deposition Russell Johnston, December 11, 2008
138.	Rule 30(b)(6) Deposition of Delaware (Cynthia Denemark), December 10, 2008, selected pages
139.	Rule 30(b)(6) Deposition of Maryland (Joseph Fine), December 9, 2008, selected pages
140.	Rule 30(b)(6) Deposition of Wyoming (Roxanne Homar), December 3, 2008, selected pages
141.	Rule 30(b)(6) Deposition of Alaska (David Campana), August 21, 2008, selected pages
142.	Second Amended Petition of the State of Texas Against Dey, Inc., Roxane Laboratories, Inc., and Warrick Pharmaceuticals Corporation
143.	HHS OIG report, <i>DMERCs – Meeting HCFA's Objectives</i> , OEI-04-97-00330 (February 2000)
144.	Rule 30(b)(6) Deposition of CIGNA (Carolyn Helton), March 13, 2008, selected pages

145.	Rule 30(b)(6) Deposition of Hawaii (Aileen Hiramatsu), May 2, 2008, selected pages
146.	Deposition of Julia Terrebonne (Louisiana), March 31, 2008, selected pages
147.	Deposition of Robert Paul Reid (Ohio), December 15, 2008, selected pages
148.	Deposition of Kevin Gorospe (California), September 22, 2008, selected pages
149.	Affidavit of Ted Collins, Wisconsin Medicaid
150.	Deposition of Sue Gaston, January 24, 2008, selected pages
151.	Hawaii Administrative Rules: Title 17, Chapter 1739.1 (HI-HI-00001582)
152.	Exhibit 057 to the Deposition of Aileen Hiramatsu, May 2, 2008
153.	Rule 30(b)(6) Deposition of Nebraska (Gary Cheloha), December 3, 2008, selected pages
154.	Deposition of Margaret Clifford (New Hampshire), October 29, 2008, selected pages
155.	Rule 30(b)(6) Deposition of New Mexico (Robert Stevens), December 15, 2008, selected pages
156.	Rule 30(b)(6) Deposition of Washington (Ayuni Hautea-Wimpee), November 24, 2008, selected pages
157.	Deposition of Douglas Hillblom (California), September 23, 2008, selected pages
158.	Deposition of Allen Chapman (Colorado), December 15, 2008, selected pages
159.	Rule 30(b)(6) Deposition of Rhode Island (John Young), December 3, 2008, selected pages

I swear under the penalties of perjury that the foregoing statements are true and correct.

/s/ George B. Henderson, II

George B. Henderson, II
Assistant U.S. Attorney

Executed this 24th day of July, 2009